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No. 81-2358

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

AMERICAN NATIONAL BANK,
Petitioner,

v.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Respondent.

On Petition for a Writ of Certiorari to The United States Court of Appeals for the Fourth Circuit

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PETITIONER'S SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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Since the filing of the Petition herein the Ninth Circuit in *Gay v. Waiters Union, Local 30,* ____F.2d____, 29 FEP Cases 1027, 1040-1043 (9th Cir., August 24, 1982) has sharpened the conflict among the circuit courts over the proper employment of statistical proof in Title VII cases.

Like the Fifth and Eighth Circuits, but contrary to the Fourth Circuit's opinion below, the Ninth Circuit has ruled that statistical variances in the 2-3 standard deviation range are not sufficient standing alone to prove an intentional pattern and practice of employment discrimination.

Respectfully submitted,

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September 28, 1982

CERTIFICATE OF SERVICE

I, Paul M. Thompson, counsel for the Petitioner, and a member of the Bar of the Supreme Court of the United States, hereby certify that I have served all parties required to be served by depositing three copies of the foregoing Supplemental Brief in the United States Mail, first class postage prepaid, this 28th day of September, 1982, addressed to: The Solicitor General of the United States, Department of Justice, Washington, D.C. 20530; Michael N. Martinez, Acting General Counsel, Office of the General Counsel, Equal Employment Opportunity Comission, 2401 E Street, N.W., Washington, D.C. 20560; William K. Slate, II, Clerk, United States Court of Appeals for the Fourth Circuit, Richmond, Virginia 23219.

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